

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF BIG RIVERS)	
ELECTRIC CORPORATION'S RATES)	CASE NO. 9885
FOR WHOLESALE ELECTRIC SERVICE)	

O R D E R

The Commission, on its own motion, finds that an investigation should be initiated to review the current wholesale electric rates authorized for Big Rivers Electric Corporation ("Big Rivers") and to determine if any changes in rates are needed to reflect the commercialization of the Wilson generating plant. This investigation is mandated by the Commission's decision in Case No. 9613, Big Rivers Electric Corporation's Notice of Changes In Rates And Tariffs For Wholesale Service And Of A Financial Workout Plan, to reject the Financial Workout Plan ("Workout Plan") negotiated by Big Rivers with its major creditors and deny any rate increase. The Commission is acutely aware that the disastrous financial problems facing Big Rivers can be successfully resolved only by the negotiation of a Workout Plan that insures (1) the long term continued operation of the aluminum smelters; (2) fair and reasonable rates for the rural customers; and (3) an equitable sharing of the risk by the creditors.

The need to expedite the resolution of Big Rivers' problems is clear. The pending federal court foreclosure action, filed by the Rural Electrification Administration ("REA") has had a

chilling effect on Big Rivers' ability to consummate long term off-system sales sorely needed to repay the REA. Similarly, the doubt and uncertainty as to the stability of long term electric rates seriously threatens the continued operations of National Southwire Aluminum Company ("NSA") and Alcan Aluminum Corporation ("Alcan"), two customers that account for approximately 70 percent of Big Rivers' member revenues. Consequently, time is of the essence and the situation demands expedited proceedings.

To conduct this investigation as expeditiously as possible the Commission will incorporate the complete record of evidence from Case No. 9613 into this new docket and all parties in Case No. 9613 will be designated as parties herein. A time frame, not to exceed four months, will be afforded Big Rivers to renegotiate a fair and economically feasible Workout Plan with its creditors and to negotiate a flexible power rate with NSA and Alcan. Although it is anticipated that both smelters will be served under the same flexible rates, the Commission would not summarily reject a flexible rate contract with one smelter if the other smelter was offered but rejected the same rates. If the parties are unable to resolve through negotiations the rate issues surrounding Wilson and the economic viability of NSA and Alcan, the Commission will move rapidly in this docket to adjudicate those issues and establish fair, just, and reasonable rates for Big Rivers.

Guidelines for Revised Workout Plan

The Big Rivers power system is a valuable resource to the citizens of Western Kentucky and the Commission is looking for a reasonable, workable, long-term solution to Big Rivers' problems.

In the Order issued simultaneously in Case No. 9613, the Commission has asserted its statutory right to review and approve a revised workout plan. The overall goal of the revised Workout Plan should be to stabilize the Big Rivers service area and provide for economic growth to diversify Big Rivers' load. The plan must offer an equitable balance among all interests. Any acceptable revised workout plan must seriously consider the following guidelines.

1. It is the opinion of the Commission that a good starting point for negotiation is the Sunflower Electric Cooperative Debt Restructure Plan. Recognizing the disturbing lack of load diversity and Big Rivers' dependence upon a sluggish aluminum industry, provisions similar to the Sunflower Plan which are not contingent upon an immediate rate increase and guaranteed full repayment of debt are desirable.

2. The immediate and primary source for debt service is off-system sales. Therefore, an agreement on off-system sales should be used in calculating any schedule of debt repayment. Big Rivers' ratepayers should not have unlimited responsibility for the payment of Big Rivers' debt. Furthermore, they should not be required to provide all the revenues required to offset shortfalls arising from insufficient off-system sales.

3. The interests of all affected parties must be considered: rural consumers, industrial customers and creditors. Big Rivers should meet with the creditors to negotiate a revised workout plan. Big Rivers and the aluminum companies should negotiate a flexible rate plan that recognizes the cyclical nature

of the industry and the revenue requirements of the utility. Big Rivers, the Attorney General, and other interested parties should meet to discuss the negotiation and determine how the interests of customers other than NSA and Alcan can best be protected.

4. While the Commission expects and the public interest requires that all participants negotiate expeditiously and in good faith, the Commission will make the ultimate decision as to a reasonable long-term solution and no participant will have a veto. The Commission wishes to see the results of negotiations within the time frame established herein.

5. The payment of Big Rivers' obligations to its creditors should take into consideration longer terms, reduced interest rates, deferral of principal and interest payments, preferred stock options, payments tied to off-system sales, and reduction of principal.

6. Consideration should be given to sale or disposal of Wilson to another entity or through establishment of a generating subsidiary as a possible long-term solution.

7. The plan should include well documented projections of system and off-system sales and cash flow over both the short and long term. Documentation should include a thorough explanation of all assumptions, reasonable specificity of targets, and detailed work papers supporting the long and short run cash flow projections.

8. A revised workout plan must contain much more affirmative support by REA of Big Rivers' efforts to achieve off-system sales. The current workout plan states only that "the

REA will not unreasonably withhold its consent to power sales agreements proposed by BREC [Big Rivers] or to "non-disturbance" provisions with power purchasers in appropriate cases."

9. Priority of disbursements with regard to principal and interest should be clearly established.

10. Big Rivers is currently involved in litigation with REA and the Justice Department, Alcan, and NSA. The revised workout plan should include a settlement of all outstanding litigation.

Big Rivers should develop a timetable for these negotiations and file status reports with the Commission every two weeks. The Commission will be available to assist in the process. A hearing will be held at the Commission's offices on July 28, 1987, to review the new workout plan along with the flexible rate contracts for NSA and Alcan. The parties will also be given an opportunity to present additional evidence on Big Rivers' need for the Wilson plant and the appropriate level of rates for electric service.

IT IS THEREFORE ORDERED that:

1. An investigation of Big Rivers rates for wholesale electric service be and it hereby is established; the record of evidence in Case No. 9613 be and it hereby is incorporated by reference; and all parties to Case No. 9613 be and they hereby are designated as parties herein;

2. Big Rivers shall negotiate with its creditors to develop a revised Workout Plan based on the guidelines set forth in this Order;

3. Big Rivers shall negotiate a flexible power rate schedule with NSA and Alcan;

4. Big Rivers shall file status reports of its negotiations at least every two weeks and shall submit a revised Workout Plan and flexible power rate schedules no later than July 17, 1987;

5. A hearing be and it hereby is scheduled on July 28, 1987, at 9:00 A.M., E.D.T., at the Commission's offices in Frankfort, Kentucky, for purposes of receiving testimony and cross-examination on the revised Workout Plan, flexible power rates for NSA and Alcan, and establishing fair, just, and reasonable rates for Big Rivers.

Done at Frankfort, Kentucky, this 17th day of March, 1987.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director